

Notice of Allowability

Application No.

09/811,001

Examiner

Henry N. Tran

Applicant(s)

BROSNAN, MICHAEL JOHN

Art Unit

2674

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief received 7/5/05.
2. ☒ The allowed claim(s) is/are 1-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Henry N. Tran

**HENRY N. TRAN
PRIMARY EXAMINER**

DETAILED ACTION

Applicant's arguments provided in pages 6-16 of the Appeal Brief, filed 7/5/05, with respect to the rejections of claims 1-22 as recited in the Final Office action mailed 1/28/05 have been fully considered and are persuasive. The rejections of claims 1-22 have been withdrawn.

Allowable Subject Matter

1. Claims 1-22 are allowed.
2. The following is an examiner's statement of reasons for allowance:

Applicant's arguments, see pages 6-16 of the Appeal Brief, have clearly pointed out the patentable novelty features and the differences between the claimed invention and the closest prior art of record, the Paloniemi et al. reference (US Publication No. 2001/0017934) and the Gordon et al reference (U.S. Patent No. 6,057,540). Specifically, the instant independent claims 1 and 5 require two separate and distinct movements for highlighting and selecting a menu item (18A-C), wherein an amount and direction of a first relative movement is used to generate a first set of movement data to highlight a menu item, and an amount and direction of a second relative movement is used to generate a second set of movement data to select the highlighted menu item; and the instant independent claims 11, 14, and 18 require: storing movement pattern data representing a first pattern of relative movement between the portable electronic device (10A) and an image surface (22), generating a first set of motion data based on the sensed relative movement, and identifying a user based on the comparison of first set of motion data to the stored movement pattern data; whereas, the closest prior art requires a comparison of the image of a user's fingertip swiped over the fingerprint sensor 5 with a stored image of the user's

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fingerprint for user identification (see Paloniemi et al reference, Figs. 3a and 5, and paragraph 0032), and which does not teach or suggest the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

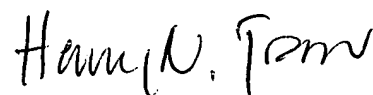
Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry N. Tran whose telephone number is 571-272-7760. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick N. Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9/18/05



**HENRY N. TRAN
PRIMARY EXAMINER**